

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Friant Division - Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND
FRIANT WATER AUTHORITY
FOR THE REPAYMENT OF EXTRAORDINARY
MAINTENANCE COSTS FOR THE FRIANT-KERN CANAL MIDDLE REACH
CAPACITY CORRECTION PROJECT

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Contract No. _____
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Signature Page

Exhibit A Cost Share Agreement No. 21-WC-20-5856
Exhibit B Repayment Schedule(s)

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THIS CONTRACT made this ____ day of _____, 2021, pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory and supplementary thereto, including but not limited to, Title IX, Subtitle G, Section 9603 of the Omnibus Public Land Management Act of March 30, 2009 (P.L. 111-11, 123 Stat. 1348, 43 U.S.C. § 510b), all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, acting by and through the Bureau of Reclamation, hereinafter referred to as “Reclamation” or the “United States,” and the FRIANT WATER AUTHORITY, hereinafter referred to as “FWA”, a joint powers authority duly organized, existing, and acting pursuant to the laws of the State of California; both may be referred to as a “Party” individually or the “Parties” collectively.

WITNESSETH, That:

RECITALS

a. The United States has constructed and is operating the Central Valley Project (CVP), California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other

beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

b. The United States and FWA executed a renewed operation, maintenance, and replacement (OM&R) agreement (Contract No. 8-07-20-X0356-X), for thirty-five (35) years effective October 5, 2020, through October 5, 2055, “Transfer Agreement” which transferred the responsibility for OM&R of the Friant-Kern Canal and associated works, a primary conveyance facility(ies) of the CVP, Friant Division; and

c. Pursuant to Section 9603 of P.L. 111-11, the Secretary of the Interior, acting through the Bureau of Reclamation (Reclamation), is authorized to construct Extraordinary Operation and Maintenance (XM) Work and to negotiate a contract for repayment of those Project Costs, with interest; and

d. Following the drought years of 2014 and 2015, it was observed that the Friant–Kern Canal could no longer convey its historical water quantities between mile – post (MP) 88.1 to 121.5, (which segment is referred to as the “Middle Reach”) largely resulting from subsidence caused by groundwater overdraft in the region; and

e. P.L. 111-11, section 10201(a)(1) directs and authorizes the Secretary of the Interior to conduct feasibility studies to restore the capacity of the Friant-Kern Canal to such a capacity as originally designed and constructed by Reclamation and to construct a feasible project using funds available in Section 10203(a) and (c). All funds made available for the XM Project under the San Joaquin River Restoration Settlement Act (Public Law 111-11, Title X, Part III (a) (1)), are Non-Reimbursable; and

f. Reclamation signed a Record of Decision for the XM Project dated November 4, 2020, which provided the environmental coverage for moving forward with the XM Project and allows for the execution of this Repayment Contract; and

g. Reclamation has determined that this XM Repayment Contract complies with all applicable Federal, State, and local laws, rules, and regulations, including but not limited to the National Environmental Policy Act of 1969 (Pub. L. 91-190, as amended and supplemented, 42 U.S.C. § 4321, et seq.), the Endangered species Act (16 U.S.C. § 1531, et seq.), and the National Historic Preservation Act of 1966, October 15, 1966, as amended (Pub. L. 89-665; 80 Stat. 915; 16 U.S.C. § 470 et seq.), as required; and

h. FWA is subject to and will comply with all environmental measures contained in any applicable environmental documentation prepared for the XM Work; and

i. The Water Infrastructure and Improvements for the Nation (WIIN) Act – Section 4007 prescribes Federal involvement for water storage projects. As defined by the WIIN Act, the project is a Federally-owned water storage project and, as a result, the Secretary of the Interior may participate in the project in an amount no greater than fifty percent (50%) of the total cost of the Federally-owned water storage project inclusive of other Federal funding. In order to commence construction of the XM Project, the Secretary of the Interior must: a) determine that the project is feasible, b) secure an agreement providing upfront funding as is necessary to pay the non-Federal share of the XM Project Costs, which is the purpose of the Cost Share and Contributed Funds Agreement No. 21-WC-20-5856, executed April 28, 2021, (“Cost Share Agreement”) in Exhibit A of this Repayment Contract, and c) determine that in return for the

Federal cost-share investment at least a proportionate share of the XM Project benefits are

Federal benefits; and

j. Consistent with the Feasibility Study of January 2020 (“Feasibility Study”), and subsequent cost estimates, Reclamation has estimated the total XM Project Costs to repair the Friant–Kern Canal between MP 88.1 and 121.5 to be \$500 million with a total net benefit of just under \$999.4 million, which include up to \$44,226,800 of fish and wildlife enhancements and flood control benefits (Non-Reimbursable), up to \$41.9 million of statutorily mandated Non-Reimbursable water supply benefits (P.L. 111-11 sec. 10201 and 10203), and \$913,273,200 in Reimbursable water supply benefits; and

k. Consistent with P.L. 111-11 Section 9603, the Secretary of the Interior may carry out any extraordinary operation and maintenance work on a project facility that the Secretary of the Interior determines to be reasonably required to preserve the structural safety of the project facility and negotiate appropriate repayment contracts with project beneficiaries providing for the return of Reimbursable XM Project Costs, with interest; provided, however, that no contract entered into pursuant to P.L. 111-11 Section 9603 will be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (43 U.S.C. 390cc(a)); and

l. Reclamation has determined that the XM Project in this Repayment Contract meets the definition of “Extraordinary Operation and Maintenance Work” (Title IX, Section 9601 of Public Law 111-11); and

m. Under the Cost Share Agreement, Reclamation and FWA have agreed to share the cost of the XM Project as required by the WIIN Act with the United States contributing up to 50% of the XM Project Costs associated with Federal benefits; and

n. The Cost Share Agreement further provides that FWA is responsible for the repayment of Reimbursable XM Project Costs of the Federal investment in the XM Project, as determined by Reclamation in addition to providing FWA's share of the XM Project Costs; and

o. The repayment of XM Project Costs will be structured consistent with P.L. 111.11, Section 9603; and

p. Reclamation in consultation with FWA have determined that it is in the best interest of both Parties for Reclamation to complete the XM Work; and

q. FWA and Reclamation have determined that the XM Project was initiated as an OM&R action; and

r. FWA may collect the XM Project Costs for which FWA is responsible as Reclamation's non-federal cost share partner under the Cost Share Agreement and this XM Repayment Contract from the "Water Delivery Contractors" (hereafter "Friant Contractors") and any other "Party Entitled to Utilize or Receive Other Water" identified in Article 1(e) and 1(l) "Definitions" and Exhibit B of the Transfer Agreement titled, "List of Obligations to Convey and Distribute Water in and From the Project Works," (which may be updated upon mutual written agreement between the Parties without amending this Repayment Contract) as OM&R charges pursuant to Article 12 of the Transfer Agreement.

In consideration of the mutual and dependent covenants herein contained, the Parties mutually agree as follows:

DEFINITIONS

1. When used in this Repayment Contract, the term:

(a) “Central Valley Project” or “CVP” shall mean the Central Valley Project owned by the United States and managed by the Department of the Interior, Bureau of Reclamation.

(b) “Contracting Officer” shall mean the Secretary of the Interior’s duly authorized representative acting pursuant to this Repayment Contract and applicable Federal Reclamation law or regulation.

(c) “Extraordinary Operation and Maintenance Work” or “XM Work” (consistent with P. L. 111-11) shall mean major nonrecurring maintenance to Reclamation-owned or operated facilities, or facility components, that is--intended to ensure the continued safe, dependable, and reliable delivery of authorized project benefits. The XM Work involving greater than 10 percent of FWA’s annual operation and maintenance budget for the facility(ies), or greater than \$100,000

(d) “Extraordinary Maintenance Project,” “XM Project,” or “Friant-Kern Canal Middle Reach Capacity Correction Project” shall mean the replacement, repair, and capacity correction to the Middle Reach of the Friant–Kern Canal, to restore capacity to the Friant–Kern Canal as originally designed and constructed by the United States in accordance with the XM Project Feasibility Study resulting in the reoperation of the Friant Dam. The XM Work will be performed by the United States pursuant to Section 9603 of P.L. 111-1. The XM Project may be completed in phases.

(e) “Extraordinary Maintenance Project Costs” or “XM Project Costs” shall be all costs incurred by the United States in accordance with the terms of this Repayment Contract directly related to the XM Project. Subject to the provisions of this Repayment Contract, the term shall include, but is not necessarily limited to engineering and design costs, construction costs, and project close out costs.

(f) “Fiscal Year” shall mean the period October 1 through September 30 of the following year.

(g) “Interest During Construction” or “IDC” shall mean that amount of annual or half-annual interest, identified in the then-current Exhibit B, Repayment Schedule attached hereto, on the XM Project Costs expended between the first date of the quarter when funds were first disbursed for construction of the XM Project and the date of Substantial Completion of the XM Project.

(h) “Interest on Investment” or “IOI” shall mean the interest on the unpaid balance of the Repayment Obligation.

(i) “Non-Reimbursable” shall mean exempted from repayment pursuant to applicable legislation. For the purposes of the XM Project, all Non-Reimbursable funds and the Non-Reimbursable benefits identified in the Feasibility Study are pursuant to applicable legislation including, the San Joaquin River Restoration Settlement Act (Public Law 111-11, Title X, Part III(a)(1)), the Reclamation Project Act of 1939, and the Federal Water Project Recreation Act of 1965 (Public Law 89-72, as amended).

(j) “Reimbursable” shall mean requiring repayment to the United States pursuant to applicable legislation. For the purposes of the XM Project, all Reimbursable funds and the

Reimbursable benefits identified in the Feasibility Study will be provided and recovered pursuant to Title IX, Subtitle G of the Omnibus Public Land Management Act of 2009 (Act of March 30, 2009, Public Law 111-11; 43 U.S.C. §510), and under the terms of this Repayment Contract.

(k) “Repayment Obligation” shall mean the entire sum of funds expended by the United States to complete the XM Project, plus accrued interest, as determined by the Contracting Officer in accordance with Article 4 herein, minus any direct funding from Non-Reimbursable sources and any funding for Non-Reimbursable benefits identified in the Feasibility Study.

(l) “Substantial Completion” or “Substantially Complete shall mean the Contracting Officer’s determination, that the XM Work is sufficiently complete so that the United States or FWA can use, operate, or occupy the specific XM Work for its intended purpose.

(m) “Year” shall mean the period January 1 through December 31, both dates inclusive.

TERM OF THE CONTRACT

2. This Repayment Contract will become effective on the date first written above and will remain in effect until FWA has fully repaid its Repayment Obligation to the United States as will be described in the Exhibit B herein. Exhibit B will be updated and finalized upon the Contracting Officer’s issuance of the written notice of Substantial Completion. Said notice will be provided consistent with Article 14, Notices.

EXTRAORDINARY MAINTENANCE PURSUANT TO SECTION 9603 OF P.L. 111-11

3. (a) The XM Project will include, but is not limited to, the replacement, repair, and capacity correction to the Middle Reach of the Friant–Kern Canal-between Mile-Post 88.1 – 121.5 as originally designed and constructed by the United States resulting in the reoperation of the Friant Dam. The XM Work will include raising and widening portions of the existing Friant-Kern Canal and replacing a portion of the Friant-Kern Canal by constructing a replacement section directly east of the existing Friant-Kern Canal to provide a capacity of approximately 4,000 cubic feet per second (specific capacity varies by location), and any environmental mitigation associated with the Friant-Kern Canal replacement work, in accordance with the Feasibility Study.

(b) The Contracting Officer will provide FWA with a periodic report covering construction status, specifications conformance, progress status, and accounting analyses.

(c) The Contracting Officer will provide FWA a draft XM Project Cost report for the XM Project after the XM Work (construction) is deemed Substantially Complete by the Contracting Officer. FWA will have 120 days from receipt of this draft to review and provide any written comments to the Contracting Officer consistent with the Article 14, Notices. FWA will have access to all of Reclamation’s non-privileged documentation relating to the XM Project Costs throughout the 120-day review period. Upon the Contracting Officer receiving FWA’s written comments and conducting subsequent consultation with FWA, if needed, the Contracting Officer will issue the final XM Project Cost report and total Repayment Obligation in replacement of the then-existing draft Exhibit B.

(d) FWA's Transfer Agreement including but not limited to Articles 1, 3, 5 and 12, establishes what constitutes the OM&R of the Friant-Kern Canal and how FWA may identify, plan, finance, construct and collect funds for such work, including the XM Work that is the subject of this Repayment Contract.

FRIANT WATER AUTHORITY'S REPAYMENT OBLIGATION

4. (a) FWA shall be obligated to repay the Repayment Obligation for the XM Work subject to this Repayment Contract, which XM Work may be completed in phases.

(b) The interest rate used for computing IDC on XM Project Costs in progress and IOI on the unpaid balance of the Repayment Obligation in accordance with Section 9603(b)(3) of P.L. 111-11 is the Department of the Treasury rate as of the beginning of the Fiscal Year in which the XM Work for each phase is commenced under this Repayment Contract, on the basis of average market yields on outstanding marketable obligations of the United States with the remaining periods of maturity comparable to the applicable reimbursement period of the XM Work for each phase, adjusted to the nearest 1/8 of 1 percent on the unamortized balance of any portion of the Repayment Obligation. Each phase will be subject to interest accrual which will commence in the Fiscal Year in which the XM Work for that phase is commenced, as determined by the Contracting Officer.

(c) The first Repayment Obligation installment will be due and payable on or before the last day of February of the Year following the date on which the Contracting Officer determines and notifies FWA in writing that the XM Work for each phase is Substantially Complete.

(d) As soon as practicable following the determination that the XM Work is Substantially Complete, and after consultation with FWA, the Contracting Officer will provide FWA with the final repayment schedule(s) requiring equal annual installments within the term provided in Article 4(e) of this Repayment Contract, beginning with the first installment as provided in Article 4(c) of this Repayment Contract, which schedule(s) will be incorporated into this Repayment Contract as Exhibit B, Repayment Schedule, and may be updated by the Contracting Officer without amendment of this Repayment Contract.

(e) The Repayment Obligation amounts associated with each phase will be repaid within thirty (30) years.

(f) FWA may, at any time, prepay all or a portion of the unpaid Repayment Obligation balance as provided herein without penalty, notwithstanding any interest accrued.

REIMBURSABILITY OF XM PROJECT COSTS

5. In accordance with the Feasibility Study and the Cost Share Agreement, the XM Project Costs associated with benefits other than fish and wildlife enhancements, flood control, and statutorily mandated water supply (P.L. 111-11, Part III, Sections 10201 and 10203), will be fully Reimbursable as specified by the terms of this Repayment Contract. Project benefits will be determined for each phase of the XM Project. Prior to the commencement of construction for each phase of the XM Project, Reclamation will consult with FWA regarding the amount of funds to be provided under PL 111-11, Part III, Section 10201 and 10203 for that phase of the XM Project. The final XM Project benefit calculation, along with the amount of Reimbursable XM Project Costs, will be determined upon the final resolution of the XM Project Costs for the XM Project upon written notification by the Contracting Officer of Substantial

Completion. If the XM Project is not fully implemented as represented in the Feasibility Study, the Parties acknowledge and agree that the allocation of Non-Reimbursable funds will be reallocated as Reimbursable, if appropriate, based on the final XM Work benefit calculation of the XM Project as constructed. Funds reallocated from Non-Reimbursable to Reimbursable will be repaid with interest as specified by the terms of this Repayment Contract. In accordance with Section 4007 of the WIIN Act, under no circumstance will Reclamation participate in the XM Project in an amount greater than fifty percent (50%) of the XM Project Costs as constructed.

TITLE TO REMAIN IN THE UNITED STATES

6. (a) Title to the XM Project Work will be and will remain in the name of the United States unless otherwise provided by Congress, notwithstanding the full payment to the United States, of the Repayment Obligation sum under this Repayment Contract.

(b) The rights and obligations created hereby are supplementary to and do not supersede or affect the rights and obligations under any prior contracts between the United States and FWA except as provided in sub-Article 7 (b) of this Repayment Contract.

SEVERABILITY

7. (a) In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Repayment Contract, instead, this Repayment Contract will be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein, unless the deletion of such provisions would result

in such a material change so as to cause the fundamental benefits afforded the Parties to this Repayment Contract to become unavailable or materially altered.

b. In the event of any inconsistency between this Repayment Contract and the Cost Share Agreement-Exhibit A, this Repayment Contract controls. Otherwise, the Parties may remedy the differences pursuant to Article 8, Resolution of Disputes.

RESOLUTION OF DISPUTES

8. Should any dispute between the Parties arise concerning any provision of this Repayment Contract, upon written request from either Party, the Area Manager, South-Central California Area Office, will meet and confer with FWA in an attempt to resolve the dispute within sixty (60) days of such request. If the dispute has not been resolved within the initial sixty (60) days, the dispute will be referred to the Contracting Officer for a subsequent sixty (60) days within which to resolve the dispute.

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

9. (a). The Parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this Repayment Contract is subject to Federal reclamation law, including but not limited to the Reclamation Reform Act of 1982 (43 U.S.C. 390aa, *et seq.*), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

(b) The Contracting Officer will have the right to make determinations necessary to administer this Repayment Contract that are consistent with its expressed and implied provisions, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations will be made in consultation with FWA.

CHARGES FOR DELINQUENT PAYMENTS

10. (a) FWA will be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, FWA will pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes sixty (60) days delinquent, FWA will pay, in addition to the interest charge,

an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent ninety (90) days or more, FWA will pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of six (6) percent per year. FWA will also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest rate charged will be the greater of either the rate prescribed quarterly in the *Federal Register* by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received will be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

BOOKS, RECORDS, AND REPORTS

11. FWA will establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Repayment Contract, including FWA's financial transactions; water supply data; project operation, maintenance, and replacement logs; project lands and rights-of-way use agreements; and other matters that the Contracting Officer may require. Reports will be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal law and regulations, each Party to this Repayment Contract will have the right during officer hours to examine and make copies of the other Party's books and records relating to matters covered by this Repayment Contract.

RULES, REGULATIONS, AND DETERMINATIONS

12. (a) The Parties agree that the delivery of water or the use of Federal facilities pursuant to this Repayment Contract is subject to Federal reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

(b) The Contracting Officer will have the right to make determinations necessary to administer this Repayment Contract that are consistent with its expressed and implied provisions, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations will be made in consultation with FWA.

GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

13. (a) The obligation of FWA to pay the United States as provided in this Repayment Contract is a general obligation of FWA notwithstanding the manner in which the

obligation may be distributed among Friant Contractors or other Parties Entitled to Utilize or Receive Other Water and notwithstanding the default of individual Friant Contractors or any Party Entitled to Utilize or Receive Other Water in their obligation to FWA.

(b) The payment of charges becoming due pursuant to this Repayment Contract is a condition precedent to receiving benefits under this Repayment Contract.

(c) The Parties will follow the process in Article 12(d) Termination of Water Deliveries of the Transfer Agreement for instances in which a Friant Contractor or a Party Entitled to Utilize or Receive Other Water is delinquent with the payment of the XM Project Costs allocated to them by FWA under this Repayment Contract.

(d) The availability of the remedy provided in Article 12(d) of the Transfer Agreement to terminate deliveries of water when there is a payment delinquency, by a Friant Contractor or other Party Entitled to Utilize or Receive Other Water, will not exempt FWA from repayment to the United States under this Repayment Contract.

NOTICES

14. (a) Any notice, demand, or request authorized or required by this Repayment Contract will be deemed to have been given, on behalf of FWA, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Chief Operating Officer of FWA, 854 North Harvard Avenue, Lindsay, CA 93247-1715. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

(b) This Article 14 (a) herein will not preclude the effective service of such notices by other mutually agreeable measures.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

15. The expenditure or advance of any money or the performance of any obligation of the United States under this Repayment Contract will be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds will not relieve FWA from

any obligations under this Repayment Contract. No liability will accrue to the United States in case funds are not appropriated or allotted

OFFICIALS NOT TO BENEFIT

16. No Member of or Delegate to the Congress, Resident Commissioner, or official of FWA shall benefit from this Repayment Contract other than as a Friant Contractor or landowner in the same manner as other Friant Contractors or landowners.

ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

17. The provisions of this Repayment Contract will apply to and bind the successors and assigns of the respective Parties, but no assignment or transfer of this Repayment Contract or any right or interest therein by either Party will be valid until approved in writing by the other Party.

EQUAL EMPLOYMENT OPPORTUNITY

18. During the performance of this Repayment Contract, FWA agrees as follows:

(a) FWA will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. FWA will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. FWA agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) FWA will, in all solicitations or advertisements for employees placed by or on behalf of FWA, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(c) FWA will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision will not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing,

or action, including an investigation conducted by the employer, or is consistent with FWA's legal duty to furnish information.

(d) FWA shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of FWA's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) FWA will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules regulations and relevant orders of the Secretary of Labor.

(f) FWA will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(g) In the event of FWA's noncompliance with the nondiscrimination clauses of this Repayment Contract or with any of the said rules, regulations or orders, this Repayment Contract may be canceled, terminated or suspended, in whole or in part and FWA may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) FWA will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. FWA will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event FWA becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, FWA may request the United States to enter into such litigation to protect the interests of the United States.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

19. (a) FWA shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1975 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et. Seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. § 6101, et seq.), Title III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.), and any other applicable civil rights laws, and with the

applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes prohibit any person in the United States from being excluded from participation in, being denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this Repayment Contract, FWA agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs and documents.

(c) FWA makes this Repayment Contract in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts or other Federal financial assistance extended after the date hereof to FWA by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. FWA recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article, and that the United States reserves the right to seek judicial enforcement thereof.

(d) Complaints of discrimination against FWA shall be investigated by the Contracting Officer's Office of Civil Rights.

CERTIFICATION OF NONSEGREGATED FACILITIES

20. FWA hereby certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. FWA agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in this Repayment Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, disability, or otherwise. FWA further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such

proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.

MEDIUM FOR TRANSMITTING PAYMENTS

21. (a) All payments from FWA to the United States under this Repayment Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of the Repayment Contract, FWA shall furnish the Contracting Officer with FWA's taxpayer's identification number (TIN). The purpose for requiring FWA's TIN is for collecting and reporting any delinquent amounts arising out of FWA's relationship with the United States.

CONTRACT DRAFTING CONSIDERATIONS

22. This Repayment Contract has been negotiated and reviewed by the Parties hereto, each of whom is sophisticated in the matters to which this Repayment Contract pertains. All double-spaced, non-standard Articles, or portions thereof of this Repayment Contract have been drafted, negotiated, and reviewed by the Parties, and no one Party will be considered to have drafted the stated Articles.

476 IN WITNESS WHEREOF, the Parties hereto have executed this Contract as of
477 the day and year first above written.

478 UNITED STATES OF AMERICA

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481

482

By: _____

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Regional Director

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Interior Region 10: California-Great Basin

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Bureau of Reclamation

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FRIANT WATER AUTHORITY

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490 (SEAL)

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By: _____

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Chair, Board of Directors

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498 Attest:

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500

501

Secretary

EXHIBIT A

Cost Share Agreement No. 21-WC-20-5856

EXHIBIT B

Placeholder for Draft Repayment Schedule

Draft will be Finalized upon the Contracting Officer's Issuance of
Substantial Completion Notice(s) for Each Phase